

### **Remark**

Applicants respectfully request reconsideration of this application as amended. No claims have been amended. No claims have been cancelled. Therefore, claims 1-33 are present for examination.

### **Response to Arguments**

Applicants previously presented almost three pages of explanation as to how the claimed “stored preferences lists” patentably distinguish over Ellis’ display format options 182. The Examiner has answered this explanation in the Response to Arguments section.

The Examiner suggests that Ellis shows a plurality of lists in figure 18. Of course, there are no lists in Fig. 18, but labeled boxes. Ellis calls these boxes display format options 182.

The Examiner appears to concede that the lists may be different ways of formatting the same collection of programs. This would be consistent with referring to the labeled boxes as display format options 182.

The Examiner then reasons as follows:

- a) the boxes labeled movies, sports, and children’s programming contain non-overlapping content;
- b) these boxes allow the user to search the category;
- c) therefore those labeled boxes correspond to the claimed “stored preferences lists.”

Assumption (a) is not based in the reference and is counter to normal experience. There are movies that are for children and movies that are for adults. There are sports for children and sports that are not for children. The Examiner says that a sporting event

would not occur in a movie list. However, there was a recent movie in theaters documenting an automobile race across America. This might occur in only one list, but it might occur in both. What is clear is not that these are unique lists but rather that the boxes are selected in order to reduce the number of programs that will be displayed to help the user find his preference.

It should also be noted that while the Examiner is separating out three of the display formats as somehow unique. Ellis does not make this distinction. According to Ellis, all items 182 are the same in nature.

Assumption (b) is also not in the reference. This can only be imagined if by “search” the Examiner means to scroll through the list.

Conclusion (c) would appear to be that if the “lists” are mutually exclusive then they must be “stored preferences lists.” Applicants fail to understand what a or b have to do with c.

Applicants have stated, “according to the claim, the “lists” displayed in Figure 18 must [1] already be stored, [2] then searched, [3] then displayed, [4] before the user selects one.” It would make no difference to the application of the claims whether the items in the list overlapped or not. There is still nothing in (a) or (c) to suggest these four previously mentioned criteria of the claims.

Ellis does not explain the structure behind the labeled boxes in figure 18. We can imagine a wide range of possibilities, however, anticipation requires that each and every element of the claim be disclosed in the reference. This standard has not been met.

### **35 U.S.C. §101 Rejection**

The Examiner has rejected claims 1-14 under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention. Claim 1 is amended in an effort to address the Examiner's rejection. If the amendments are not deemed to be sufficient to overcome the rejection, then Applicants respectfully request that the Examiner contact the undersigned so that a suitable amendment can be arrived at.

### **35 U.S.C. §102 Rejection**

*Ellis*

The Examiner has rejected claims 1-4, 6, 10-18, 20-25 and 30-32 under 35 U.S.C. §102(e) as being anticipated by Ellis et al., U.S. Patent No. 7,185,355 ("Ellis"). This is the same rejection as before and has been previously addressed in the prior remarks and also in the remarks above.

### **35 U.S.C. §103 Rejection**

*Ellis and Stinebruner*

The Examiner has rejected claims 5, 7-9, 19, 26-29 and 33 under 35 U.S.C. §103(a) as being unpatentable over Ellis, in view of Stinebruner, U.S. Patent No. 6,133,910 ("Stinebruner"). This rejection relies on the anticipation rejection above and fails for the same reason. The Examiner does not rely upon Stinebruner for the features mentioned above that are absent from Ellis.

### **Conclusion**

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

### **Invitation for a Telephone Interview**

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

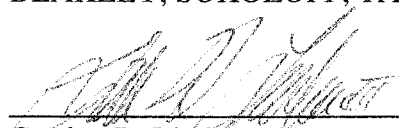
### **Request for an Extension of Time**

Applicants respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: July 1, 2009

  
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